

Excerpts
Planning Commission Minutes
August 14, 2002

Application No. ZT-67-02, York County Planning Commission: Request to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate changes made necessary by recent amendments to the Code of Virginia. Amendments to the following sections are proposed: Section 24.1-505 to reflect the five-year term of validity for site plans specified by the Code of Virginia, and, Sections 24.1-801 and 802 to reflect the State Code mandate to allow replacement of nonconforming manufactured housing units.

Mr. Mark Carter presented the summary of the staff memorandum to the Commission dated July 29, 2002. He explained that the proposed resolution is designed to bring the Zoning Ordinance into conformance with the Code of Virginia, to which some recent revisions were made, including language pertaining to nonconforming manufactured homes meeting HUD standards.

Mr. Hendricks opened the public hearing, and hearing no one he closed the public hearing.

PC02-27

On motion of Mr. Simasek, which carried 5:0 (Ptasznik and White absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-67-02 TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) BY REVISING SECTION 24.1-505 DEALING WITH SITE PLAN VALIDITY AND SECTION S 24.1-801 AND 802 DEALING WITH REPLACEMENT OF NONCONFORMING MANUFACTURED HOUSING UNITS

WHEREAS, the York County Planning Commission has sponsored Application No. ZT-67-02, which proposes the amendment of Sections 24.1-505, 801 and 802 of the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate changes necessary to conform with the requirements of the Code of Virginia; and

WHEREAS, said application has been referred to the York County Planning Commission for review and recommendation in accordance with applicable procedures; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on the application; and

WHEREAS, the Commission has determined that it would be appropriate to recommend approval of the proposed amendments; and

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of August, 2002 that it does hereby recommend approval of the following amendments to the York County Zoning Ordinance (Chapter 24.1, York County Code):

Sec. 24.1-505. Review and approval procedures for site plans .

- (i) ~~Unless otherwise provided by section 15.1-475.D Pursuant to Section 15.2-2261-,~~ Code of Virginia, final approval of a site plan submitted under the provisions of this article shall expire ~~one five-(5)~~ years after the date of such approval or, if later, upon the expiration of any building permits or renewals thereof issued for any valid and unexpired site plan. ~~unless building permits have been obtained for construction in accordance therewith. When building permits have been issued, the site plan approval shall run concurrently with the validity of the building permits. The application for and approval of minor modifications to an approved site plan shall not extend the period of validity of such plan. zoning administrator, upon written request of the owner(s) of the property to which an approved site plan pertains, shall extend the expiration date to a total of not more than five (5) years in one (1) year increments provided, however, that Notwithstanding the five (5)-year term of validity, nothing shall preclude the application, to the greatest extent possible, of the terms of any local ordinance adopted pursuant to the changes may be required which are made necessary by a change or addition to the Code of Virginia, Chesapeake Bay Preservation Areas Designation and Management Regulations Act, or the application of the provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency a stormwater program which complies with the Federal Clean Water Act.~~

ARTICLE VIII. NONCONFORMING USES

Sec. 24.1-800. Continuation of existing uses.

If, at the time of the adoption of this chapter or any amendment thereto, any use, lot, or structure is being used in a manner or for a purpose which does not conform to the regulations of the district in which it is located, but which was legal at the time of its creation and which is not prohibited by any other law or ordinance, the use, lot, or structure may be continued, without regard to any change of occupancy or ownership. Such use, lot, or structure shall be deemed a nonconforming use and shall be subject to the provisions of this article.

Sec. 24.1-801. Nonconforming uses.

- (a) *Enlargement or extension.* A nonconforming use shall not be enlarged, extended, reconstructed, or structurally altered except in conformance with the provisions of this section.
- (1) Structural additions, either attached or detached, may be made to single-family detached residences located in non-residential districts provided that such additions comply with all applicable setback and yard requirements for the district in which located and that the minimum open space provisions for said district are observed.
- (2) No other nonconforming uses shall be enlarged or extended in any way except and unless the board shall authorize such enlargement or expansion through the issuance of a special exception which shall be processed and administered in the same way as are special use permits, provided, however, in addition to the standards set out in article I, the board shall consider whether the character of the existing use will be preserved in the event of the proposed enlargement. All owners of property located within five hundred feet (500') [150m] of the subject parcel, whether abutting or not, shall be sent notice of public hearings pertaining to the request. In no case shall the nonconforming use be permitted to expand by more than fifty percent (50%) of its size measured in building floor area on the date that it became nonconforming.
- (b) *Discontinuance.* In the event a nonconforming use ceases for any reason for a period of more than two (2) consecutive years, such nonconforming use shall not be reestablished. For purposes of this section, the term "discontinued" shall mean a cessation of a use or of any portion of a use, regardless of any intent by the user or owner to reestablish the use in the future. Discontinuance shall not be synonymous with abandonment and this shall be construed to incorporate both time and place, such that if the nonconforming use ceases in a particular structure or location for more than two (2) years even though it continues elsewhere on the same lot or parcel, the nonconforming use may not be reestablished in the structure or location where it was discontinued.
- (c) *Damage or destruction.* A nonconforming use which is damaged or destroyed by a cause beyond the control of the owner may be reestablished or reconstructed within two (2) years of the date of such damage or destruction provided, however, that such reestablishment or reconstruction shall not have the effect of enlarging or extending the nonconforming use, unless in conformance with the provisions of section 24.1-801(a) above. After two (2) years, all nonconforming use rights shall be lost. Reconstruction of nonconforming structures shall be in accordance with the terms of section 24.1-802. Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured housing unit from property and its replacement with another comparable manufactured housing unit in accordance with section 24.1-802(c).
- (d) *Changes in use.* A nonconforming use may at any time, upon approval of a site plan submitted in accordance with article V of this chapter, be changed to a conforming use or to a use which is more nearly conforming with the regulations of the district in which it is located.

- (e) *Movement.* Except as provided in section 24.1-801(a) above, no nonconforming use shall be moved in whole or in part on the same lot or parcel or to any other lot or parcel which is not properly zoned to permit such use.
- (f) *Construction.* Except as provided in section 24.1-801(a) above, no additional structures which do not conform to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

Sec. 24.1-802. Nonconforming structures.

- (a) *Enlargement or alteration.* No structure which is nonconforming by reason of a conflict with the setback, yard, height or similar regulations of the district in which located may be enlarged, extended, reconstructed, structurally altered or moved in any way which increases its nonconformance with the applicable setback, yard, height or similar regulations of the district in which located. Except as may be provided in article II relative to front yards in built-up areas, any addition to nonconforming structures shall comply in all respects with the applicable setback, yard, height or similar regulations of the district in which located.
- (b) *Damage or destruction.* A nonconforming structure which is damaged or destroyed by a cause beyond the control of the owner may be reconstructed at the location of its original foundation, or at a location on the lot which is conforming or more nearly conforming provided that such reconstruction occurs within two (2) years of such damage or destruction and provided that a site plan submitted in accordance with article V of this chapter is approved. Should such reconstruction not occur within two (2) years, or in the event the damage or destruction, regardless of its extent, was initiated or caused by the owner of the structure, such structure may be reconstructed only in full accordance with the provisions of this chapter.
- (c) *Special provisions for manufactured housing units.* Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured housing unit from property and its replacement with another comparable manufactured housing unit that meets the current HUD manufactured housing code, provided that the degree of nonconformity with any yard or setback requirements applicable to the district in which located does not increase. Such replacement unit shall retain the valid nonconforming status.
